

**PUBLIC HEALTH ORDINANCE FOR
McHENRY COUNTY ILLINOIS**

McHENRY COUNTY DEPARTMENT OF HEALTH

**ARTICLE I
GENERAL PROVISIONS**

Approved December 17, 2019
Effective Date: January 1, 2020

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ARTICLE I – GENERAL PROVISIONS

§ 8.04.010 DEFINITIONS

- A. **“Board of Health Hearing Committee”** means a committee of members of the Board of Health designated to hear appeals regarding orders, notices or suspension of permits issued by the Health Authority.
- B. **“Health Authority”** means the Administrator of the McHenry County Department of Health, or their designated agent.
- C. **“Person”** means any individual, partnership, corporation, association or other legal entity.
- D. **“Owner”** means legal owner, or the person or persons in whose name(s) legal title to the real estate in question is vested as evidenced by the records contained in the McHenry County Recorder’s office.
- E. **“Variation”** means a written document, issued by the Health Authority, that authorizes a modification or waiver of one or more requirements of this Ordinance if, in the opinion of the Health Authority, a health hazard or nuisance will not result from the modification or waiver. For the purposes of this Ordinance, variation and variance shall have the same meaning.

§ 8.04.020 INTENT AND PURPOSE

- A. **Title:** This ordinance shall be known as, referred to or cited as the Public Health Ordinance for McHenry County Illinois.
- B. **Purpose:** The purpose of this Ordinance is to promote the health, safety and general welfare of the people within McHenry County, Illinois; further, it is the purpose of this Ordinance to prohibit, abate, suppress and prevent all acts, practices, conduct, uses of property and all other things detrimental or which may be detrimental to the health of the inhabitants of McHenry County, Illinois.
- C. **Intent:**
 - 1. The general intent of this Ordinance is to regulate all acts which may be necessary or expedient for the promotion of health or the suppression of disease; including but not limited to regulating public health nuisances; food establishments; vending of food and beverage; private, semi-private, closed loop and non-community water supplies; onsite wastewater treatment and disposal; public swimming beaches; housing; solid waste

management; environmental health and safety and animal control.

2. It is intended that this Ordinance will protect the health of residents and transients; will secure safety from disease and pestilence; will further the healthful use of land and water resources of McHenry County, Illinois and its communities. It is further intended to provide for the administration and enforcement of this Ordinance and to provide penalties for its violation. Unless otherwise stated, all Articles and Sections of this Ordinance apply to all areas within McHenry County, Illinois.

D. Severability Clause: If any section, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

E. Conflict: In any case where a provision of this Ordinance is found to be in conflict with a provision of any zoning, building, safety or health ordinance or code in force or adopted subsequent to the effective date of this Ordinance, the more stringent provision, as determined by a court of competent jurisdiction, shall prevail.

§ 8.04.030 ENFORCEMENT PROVISIONS

A. Powers and Duties of the Department:

1. To issue permits or registrations as required in this Ordinance.
2. To make such inspections as are necessary to determine satisfactory compliance with this Ordinance.
3. To cause investigations to be made when a violation of any provision of this Ordinance is reported to the Department.
4. To enter at reasonable times upon private or public property for the purpose of inspecting and investigating conditions relating to the administration and enforcement of this Ordinance; subject to constitutional restrictions on reasonable searches and seizures. If entry is refused or not obtained, the enforcing officer is authorized to pursue recourse as provided by law, which is typically through an administrative search warrant.
5. To institute or cause to be instituted legal proceedings in the Circuit Court of McHenry County in cooperation with the State's Attorney's Office where a condition presents a hazard to the public health.
6. To issue and enforce orders of quarantine or isolation, as permitted by Illinois law. If this is an immediate order then the health department may order quarantine or isolation without consent or a court order if immediate action is required to protect the public from a dangerously contagious or infectious disease. The health department must as soon as practical (within 48 hours after issuing immediate order) obtain consent or request a court order except when the court system is unavailable or it is impossible to do so.

- B. **Enforcing Officer:** Any duly authorized member or representative of the McHenry County Department of Health is hereby designated as an enforcing officer of this Ordinance. Any enforcing officer shall hereby be given specific power to make inspections and for that purpose may enter buildings, structures and premises at all reasonable times in order to enforce the provisions of this Ordinance and to that end shall make such orders, requirements, decisions and determinations as are necessary with respect to the enforcement of this Ordinance subject to ¶ A.4 above.
- C. **Permits:** It shall be unlawful for any person to operate any establishment, business or operation, or conduct any activities within McHenry County, Illinois, requiring permits under this Ordinance, who does not possess a valid permit issued by the Health Authority. Only a person who complies with the requirements of this Ordinance shall be entitled to receive and retain such permit. Permits shall not be transferable from one person to another or from one place to another.
- D. **Issuance of Permits:** Any person desiring to conduct any activity requiring a permit under this Ordinance shall make an application for a permit on forms provided by the Department. The application shall include all information required by this Ordinance. Upon receipt of such application, the Health Authority shall conduct the necessary evaluation and/or make an inspection of the referenced business, establishment, operation or property to determine compliance with all provisions of this Ordinance. When the applicable requirements of this Ordinance have been met and the required fee paid, a permit shall be issued to the applicant by the Health Authority.
- E. **Notices of Violations:** Whenever the Department determines through inspection or other means that there is a violation of any provision of this Ordinance, the Department shall give notice of such alleged violation. Such notice shall:
1. Be in writing.
 2. Include a Statement of the reason(s) for its issuance which shall include a citation of the applicable Ordinance Section related to the violation.
 3. Allow a period of time not to exceed ten (10) days to effect compliance with this Ordinance unless an extension of time has been granted by the Health Authority or the Public Health Ordinance specifically provides otherwise. Within said same ten (10) days, the responsible person or their designated agent shall have the right to seek, in writing, a review by the Health Authority for McHenry County of the action taken by its Enforcing Officer. The Health Authority shall provide a written response to that review within 10 business days of receipt.
 4. Be served upon the owner, operator, occupant, licensee or permit holder, or their agent as the case may require; provided, that such notice or order shall be deemed to have been properly served upon such owner, operator, occupant or agent: when a copy thereof has been sent by registered or certified mail, or when such notice has been posted on the property where the violation exists, when such notice has been posted to the front door of the permit holder's establishment, or by posting or leaving such notice

at the owner's, operator's, occupant's or permit holder's residence or when personally delivered to the owner, operator, resident, permit holder or licensee or person in charge.

5. Contain an outline of remedial action, which, if taken, will effect compliance with the provisions of this Ordinance.
 6. Explain the procedure for review or appeal of the alleged violation.
- F. **Extension of Time:** Any person, firm or corporation affected by a notice which has been issued in connection with the enforcement of any provisions of this Ordinance, may request and shall be granted a time extension, by the Health Authority, when circumstances warrant such an extension and it is in harmony with the general purpose of this Ordinance to safeguard and secure the public health, safety and welfare.
- G. **Variations:** When circumstances exist which make impractical full compliance with the requirements of this Ordinance, an applicant may request that the Health Authority grant a variation. Such request shall be made in writing, shall cite the relevant Article and Section numbers and shall accompany any other pertinent data which might support the request or which the Health Authority may require. An explanation of how the potential public health hazards and nuisances addressed by the relevant Sections of the Ordinance will be alternatively addressed shall be included. The Health Authority may grant the request for variance provided the variance does not conflict with the stated purpose of this Ordinance.
- H. **Suspension of Permits:**
1. The Health Authority may suspend any permit authorized by this Ordinance, upon violation by the property owner or permit holder of any of its terms in the manner set forth in the following paragraph:
 2. Notwithstanding the provisions of this Ordinance, whenever the Health Authority finds conditions which in their judgment constitutes imminent danger to the public health, or the permit holder, owner or operator has ignored, neglected, or carelessly responded to notices to correct issued by the Department, or in any other way has blatantly jeopardized the public's health by their manner of response to such notice, said Health Authority may without warning, notice or hearing, issue a written notice to the permit holder, owner or operator, citing such conditions and such order shall state the permit is immediately suspended and all operations are to be immediately discontinued. Any person to whom such an order is issued shall comply immediately therewith, but upon a written petition to the Board of Health Hearing Committee, shall be afforded a hearing within ten (10) business days.
- I. **Reinstatement of Suspended Permits:** Any person whose permit has been suspended may, at any time, make application for a re-inspection for the purpose of reinstatement of the permit. Within ten (10) days following receipt of a written request, including a statement signed by the applicant that in their opinion the conditions causing suspension of the permit have been corrected, the Health Authority shall make a re-inspection. If the applicant is in compliance with the requirements of this Ordinance, the permit shall be reinstated.

- J. **Revocation of Permits:** For serious or repeated violation of any of the requirements of this Ordinance, or for interference with the enforcing officer in the performance of their duties, the permit may be permanently revoked after an opportunity for a hearing has been provided by the Board of Health Hearing Committee. Prior to such action, the Health Authority shall notify the permit holder in writing, stating the reasons for which the permit is subject to revocation and advising that the permit shall be permanently revoked at the end of five (5) business days following service of such notice, unless request for a hearing is filed with the Board of Health, by the permit holder within such five (5) business day period. A permit may be suspended for cause pending its revocation or a hearing relative thereto.
- K. **Emergency Abatement:** Whenever, in the judgment of the Department, an emergency exists which requires immediate action to protect the Public Health, safety, or welfare, a court order may be requested without notice, conference, or hearing, directing the owner, occupant, operator, or agent to take such action as is appropriate to correct or abate the emergency. All expenses involved in abatement shall be borne by the owner.

§ 8.04.040 HEARINGS

Hearing: Any person, firm or corporation affected by an order or notice issued by the Health Authority, after receiving a review by the Health Authority consistent with § 8.04.030 ¶ E3, may file in the office of the Department within ten (10) business days of the date of the Health Authority's review, a written Petition for a hearing before the McHenry County Board of Health Hearing Committee. Such a Petition to the said Board of Health Hearing Committee shall stay the order, notice of violation or order of suspension or revocation until the McHenry County Board of Health has determined and decided the appeal, except that situations requiring emergency abatement as provided in § 8.04.030 K. shall not be stayed. The Petitioner for the Hearing shall be notified of the time and place of the Hearing not less than three (3) days prior to the date on which the Hearing is to be held. The Hearing shall be held within ten (10) business days after the Petition is filed unless mutually continued or extended.

- A. **Petition:** Whenever a Petitioner requests a Hearing before the McHenry County Board of Health Hearing Committee, the Petition shall:
 - 1. Be in writing.
 - 2. Be made to the McHenry County Department of Health
 - 3. State the reason(s) for the appeal.
- B. **Hearing Process:** The Board of Health Hearing Committee shall hear the petition, make a finding of fact, and make a recommendation to the Board of Health. The Board of Health shall consider the recommendation at their next regular meeting. The Health Authority shall notify the petitioner, in writing, of the findings of the Board of Health within ten (10) business days of the Board of Health meeting.

§ 8.04.050 PENALTIES

- A. Any person, firm, or corporation who maintains a nuisance as declared by this Ordinance or who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one-hundred dollars (\$100) nor

more than one-thousand dollars (\$1,000). In addition thereto, such persons may be enjoined from continuing such violations. Each day upon which such violation occurs shall constitute a separate violation.

- B.** In addition to penalties provided in subsection A above, the Department may maintain a complaint to enjoin all persons from maintaining or permitting a nuisance, and to abate same.
- C.** Other penalties and fees may apply, as stated in any later Article of this Ordinance.